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May 16, 2014

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**VIA E-MAIL AND U.S. MAIL**

Jennifer Schembri  
Deputy Director Employee Relations  
Office of the City Manager  
City of San Jose  
200 E. Santa Clara Street  
San Jose, CA 95113

**Re: Follow up to Yesterday's Meeting  
File No.: 034862**

Dear Jennifer:

Thank you for your team's contribution to a constructive meeting yesterday. Because we covered so many matters, and because there are different procedural paths to some of them, I wanted to summarize where we are on them, with emphasis on those matters where we need an immediate response.

**1. MOU Clean-up**

We appear close to finalizing the specific language of the current MOA, including the Officers' Transfer Policy and the Promotional MOA. Please send over a final copy for review and we can presumably sign it at our follow-up meeting.

**2. Bilingual Pay and Educational Pay**

We have a closed contract on these issues but appreciated Chief Garcia outlining the Department's position. The POA will consider the proposal by the Department and will further discuss it with you at next week's meeting.

**3. Article 39 Officers**

Again, we appreciated the Chief outlining the Department's aspirations concerning this issue. As we discussed, because we are addressing this in the shadow of a federal consent decree, we will consider the Department's position within

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the parameters of that decree. Expect a more detailed response at next week's meeting.

#### **4. Retiree Healthcare Contribution Rates**

As captured in our recent exchange of letters, the parties have differing views over whether the City can unilaterally raise our members' contribution rates to 10%. The POA reiterated its willingness to immediately begin meeting and conferring over a successor agreement to the provisions in Article 50. However, we need a commitment from the City that it will NOT change the current contribution rate until the conclusion of that meet and confer. Because of grievance timelines, and the like, we need the City to state its position as soon as possible.

#### **5. Retirement Board Governance**

The City has the POA's explanation about why certain aspects of the City's proposal to change provisions governing the Police and Fire Retirement Board. We request the City's response as soon as possible.

#### **6. Proposed Municipal Code Change re Disability Retirement**

The City and the POA also recently exchanged correspondence about meet and confer obligations regarding certain proposed changes to the Municipal Code on the subject of police officers who no longer qualify for disability retirement under Measure B.

The POA and Local 230 also posed 35 questions about how this new language would work. We would appreciate if the City would focus on addressing those questions at our next meeting.

We did not agree on the extent to which the City is obligated to meet and confer about the proposed changes. As I understood your articulation of the City's position is only obligated to bargain about the rate of pay of police officers who, under the revisions, would become, for example, a librarian. Conversely, the POA takes the position that, amongst other things, the potential change in work duties by officers currently in our bargaining unit is within the scope of bargaining and Article 19 of the MOA.

We will separately provide authority establishing that the potential change in duties is within the scope of bargaining.

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Again, thank you for your team's professional courtesies yesterday. We look forward to renewing our discussions/negotiations next week. We do however need to ask to push the meeting back until 2:30 p.m. Do get back to us to confirm that new schedule.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



Gregg McLean Adam

GMA:jag

cc. Edgardo Garcia, Deputy Chief of Police  
Robert Perrin, Executive Analyst  
Jim Unland, President, SJPOA  
John Robb, Vice President, SJPOA  
Franco Vado, Chief Financial Officer, SJPOA  
Paul Kelly, Board Member, SJPOA  
James Gonzales, Board Member, SJPOA  
David Woolsey, Board Member, SJPOA  
Sean Kaldor, Retirement Board